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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 28 2005

Applicant(s): Recker et al.	Atty. Dkt.: SC11244ZC
Serial No.: 09/654,253	Group Art Unit: 2128
Filed: September 1, 2000	Examiner: DAY, Heng Der
Title: MISMATCH MODELING TOOL	

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Date: September 28, 2005

DECLARATION UNDER 37 C.F.R. §1.131

Sir:

In compliance with 37 C.F.R. §1.131, the following Declaration and any attachments are provided to establish 1) conception in the United States of the Invention (claimed subject matter) in the above referenced patent application (hereinafter "the Subject Application") and due diligence to the filing of the Subject Application on September 1, 2000 from a date prior to August 24, 2000, the effective date of U.S. Patent No. 6,560,755 (hereinafter the "775 Patent") or alternatively 2) conception and reduction to practice in the United States of the Invention on a date prior to August 24, 2000, the effective date of the "775 Patent". This Declaration and any attachments referenced herein is intended as a statement of facts sufficient to show, in accordance with MPEP 715.07 (A), reduction to practice of the claimed subject matter prior to the effective date of the "775 Patent" or, in accordance with MPEP 715.07 (C), conception of the invention prior to August 24, 2000, the effective date of the "775 Patent", coupled with due diligence from prior to the effective date of the "775 Patent" to September 1, 2000, the filing date of the Subject Application. The '775 Patent was cited by the Examiner in an Office Action dated November 17, 2004 to support a rejection under 35 U.S.C. 103(a) of the claims for the Subject Application.

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We, Cynthia L. Recker and Patrick G. Drennan, the undersigned, do hereby depose and sayeth:

1. That we are the named inventors for the claimed subject matter of the Subject Application, that we were at the time of the invention employed by the Semiconductor Products Sector of Motorola, Inc., the original Assignee of the Subject Application, and that we are presently employed by Freescale Semiconductor, Inc., a separate entity created by divestiture that includes the previous Semiconductor Products Sector of Motorola, Inc., and is the present Assignee of the Subject Application.
2. That prior to August 24, 2000, the effective date of the '775 Patent, during the course of employment by the Semiconductor Products Sector of Motorola, Inc., we had conceived of and conceptualized the MISMATCH MODELING TOOL as disclosed and claimed in the Subject Application.
3. That the claimed subject matter of the Subject Application was the subject of a written Patent Disclosure (attached to §1.131 Declaration filed on April 1, 2005 as Appendix I) prepared after conception, and that before August 24, 2000, the effective date of the '775 Patent, the Patent Disclosure was submitted and presented (Presentation attached to §1.131 Declaration filed on April 1, 2005 as Appendix II) to a Patent Committee of Semiconductor Products Sector of Motorola Inc. for consideration and assignment to a patent attorney for preparation and filing of a patent application.
 - 3.1 That the Patent Disclosure as originally prepared and submitted indicated "YES on December 1, 1999" in response to the question "Has a product incorporating your idea been sold, offered for sale, placed in production, qualification, sampled," given our interpretation of the question and the belief that an experimental system then being internally evaluated was pursuant to qualifying for subsequent use a Mismatch Modeling Tool according to our idea and further

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that the Mismatch Modeling Tool was substantially according to the Mismatch Modeling Tool subsequently described and discussed in the draft Patent Application (Appendix III below) as well as the Subject Application.

3.2 That the reference to "new mismatch model" on page 2 of the Presentation (Appendix II) referred to a mismatch model substantially as discussed and described in the Drennan dissertation cited in the Information Disclosure Statement which was filed concurrently with the Subject Application and that the reference to "Automate the Motorola Mismatch Model" on page 4 referred to a Mismatch Modeling Tool substantially according to the Modeling Tool discussed and described in the draft US Patent Application (Appendix III) as well as the Subject Application.

4. That the claimed subject matter of the Subject Application was the subject of one or more draft US Patent Applications (one draft US Patent Application with Weiss and Moy cover letter dated August 22, 2000 attached to §1.131 Declaration filed on April 1, 2005 as Appendix III), that before August 24, 2000, the effective date of the '775 Patent, the draft US Patent Application was provided to us for our review, and that the draft US Patent Application of August 22, 2000 was substantively nearly identical to the Subject Application.

5. That on information and belief the Subject Application was finalized and filed, in due course and with due diligence at least from August 22, 2000, i.e., a date before August 24, 2000, the effective date of the '775 Patent, in the United States Patent Office on September 1, 2000 by or on behalf of Semiconductor Products Sector of Motorola Inc.

5.1 That upon receipt of the draft Patent Application and with due diligence, the Application was reviewed and approved by each of us and the Motorola Law Department was notified of our approval on or about August 23, 2000; that during the week beginning August 28, 2000 and ending September 1, 2000 a meeting for a final review and approval of the Subject Application was scheduled with both of us, that on August 31, 2000 we traveled to the location of the Motorola Law Department and met with Mr. Charles W. Bethards (our representative) and Ms. Lisa Hopkinson (Mr. Bethard's assistant) to review and approve the final documentation for the Subject Application (as filed on September 1, 2000 via Express mail), the final

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documentation including formal figures prepared by the Law Department drafting personnel, final specification with any substantive and formatting changes to the August 22, 2000 draft Patent Application, IDS and 1449, Applicant's Declaration, and Assignment documents that on information and belief had been prepared with diligence between August 24 and August 30, 2000, and that, after reviewing the final documentation, the Declaration and Assignment documents were executed by both of us on August 31, 2000.

6. That the Patent Disclosure, Presentation, Weiss and Moy cover letter, and draft US Patent Application are known to us to be true copies which, based on information and belief, evidences such conception and reduction to practice of the claimed subject matter of the Subject Application as well as Diligence and that each of the dates redacted from the Patent Disclosure and Presentation, is prior to August 24, 2000, the effective date of the '775 Patent.

7. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Subject Application or any patent which issues thereon.

Cynthia L. Recker

Dated: 9/28/05

Cynthia L. Recker,
Member of the Technical Staff
Freescale Semiconductor, Inc.

Patrick G. Drennan

Dated: 9/28/05

Patrick G. Drennan
Member of the Technical Staff
Freescale Semiconductor, Inc.

Attachments: Note that Appendix I, Appendix II, and Appendix III were attached to a §1.131 Declaration filed on April 1, 2005 and thus are included herewith by reference.